



## Book review

**Re: Forensic Testimony, Science, Law and Expert Evidence, C. Michael Bowers. Academic Press (2014), ISBN: 978-0-12-397005-3**

In being asked to review this book I realized I was at a disadvantage. The principal author, a forensic odontologist was describing forensic scientific practice in the USA. Forensic Medical Examiners were only fleetingly mentioned and as far as I could judge the only clinicians were dentists working as forensic odontologists in their field of bite marks where the situation was one of science rather than clinical management or assessment.

What was being described were examples of false scientific data being used in criminal trials leading in many cases to the imprisonment of accused persons some for many years before the scientific evidence helping to convict them was shown to be incorrect. In many situations DNA analysis demonstrated that the person causing the crime frequently rape and murder could not be the person accused and found guilty. Many of the cases described revolved around the forensic analysis of bite marks by experts (and noted as such as ABFO – American Board Forensic Odontology Diplomates in Forensic Odontology). Dr Bowers and his co-authors demonstrated that there was a failure of scientific rigor passed on from one generation to the next accepted by courts so that it became very difficult to over-rule earlier convictions.

A very disturbing piece of research published in 2013 involving 100 forensic examiners in the USA described the following:

1. 23% of the forensic examiners in the study were determined to have a history of addiction, 21% a history of fraud and 17% a history of other criminal convictions.
2. 27% of forensic examiners in this study were found to have been lying about some or all of their education, training and experience...
3. 82% of the forensic examiners in this study were determined to be involved in an ongoing pattern of fraud within their agency, often involving multiple examiners, prior to discovery...
4. 78% of the forensic examiners in the study were employed directly by law enforcement agencies. This finding suggests the assertion that those working on behalf of the police and the prosecution (though not necessarily the government) are responsible for a substantial amount, if not the majority of the known cases of forensic fraud.
5. 37% of the fraudulent examiners in the present study were initially retained by their respective employers without severe consequences despite their misconduct; of these, the weightiest

involved examiners that were re-assigned or temporarily suspended.

In another study of 2009, 60% of forensic analysts called by the prosecution provided invalid testimony at trial, that is testimony with conclusions misstating empirical data. In this study the types of invalid testimony identified included:

1. Presentation of non-probative evidence as probative.
2. Discounting exculpatory evidence.
3. Inaccurate presentation of statistics of frequency.
4. Providing statistics without supporting empirical data.
5. Making non statistical statement without supporting empirical data.
6. Concluding that evidence originated from the defendant without supporting empirical data.

The trials reviewed included invalid testimony from 72 forensic experts employed by 52 different agencies in 25 different states. Defence Counsel was revealed to have had no objections or have received little relief from judges hearing such protests.

The book gives many examples of victims being imprisoned after being found guilty at their trial where the main evidence against them was of a forensic scientific nature.

The evidence against some forensic scientists in the USA appeared very damning and should be made known to those in the field. I found a good deal of the material was repetitive and the English construction of sentences exaggerated – so a shorter more concise book would have been easier reading.

As I was reading the book, I noted that the Government had published its response in November 2013 to the Law Commission Proposals and concerns re. inappropriate or unreliable expert evidence in English courts. Apparently the government noted that there was no robust estimate of the size of the problem to be tackled – in terms of either the number of causes in which unreliable expert evidence is adduced or the impact this has regarding subsequently quashed convictions.

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